

Historical and Statutory Notes

Effective date, see note under § 48:5A-1.

ARTICLE VIII

48:5A-47. Revocation, suspension or alteration of certificate of approval

The board may, after affording the holder an opportunity to be heard, revoke, suspend or alter any certificate of approval for the violation of any provisions of this act or the rules, regulations or orders made under authority of this act, or for other reasonable cause, upon a finding that the revocation, suspension or alteration will not adversely affect the public interest in the provision of safe, adequate and proper cable television service in this State.

L.1972, c. 186, § 47.

Historical and Statutory Notes

Effective date, see note under § 48:5A-1.

48:5A-48. Order to extend system, to repair, to improve or add to system

The board may, after affording an opportunity for hearing, order a CATV company (1) to construct and operate any reasonable extension of its existing CATV system within the certified territory, (2) to make any reasonable repair or improvement or addition to such system.

L.1972, c. 186, § 48.

Historical and Statutory Notes

Effective date, see note under § 48:5A-1.

48:5A-49. Landlords allowing cable television service reception by tenants; prohibition of charges and fees; indemnification of owners by installers; definitions

a. No owner of any dwelling or his agent shall forbid or prevent any tenant of such dwelling from receiving cable television service, nor demand or accept payment in any form as a condition of permitting the installation of such service in the dwelling or portion thereof occupied by such tenant as his place of residence, nor shall discriminate in rental charges or otherwise against any such tenant receiving cable television service; provided, however, that such owner or his agent may require that the installation of cable television facilities conforms to all reasonable conditions necessary to protect the safety, functioning, appearance and value of the premises and the convenience, safety and well-being of other tenants; and further provided, that a cable television company installing any such facilities for the benefit of a tenant in any dwelling shall agree to indemnify the owner thereof for any damage caused by the installation, operation or removal of such facilities and for any liability which may arise out of such installation, operation or removal.

b. For purposes of this section:

(1) "Owner" includes, but is not limited to, a condominium association and housing cooperative, and "owner of any dwelling or his agent" includes, but is not limited to, a mobile home park owner or operator.

(2) "Condominium association" means an entity, either incorporated or unincorporated, responsible for the administration of the form of real property which, under a master deed, provides for ownership by one or more owners of individual units together with an undivided interest in common elements appurtenant to each unit.

(3) "Housing cooperative" means a housing corporation or association which entitles the holder of a share or membership interest thereof to possess and occupy for dwelling purposes a house, apartment or other structure owned or leased by the corporation or association, or to lease or purchase a dwelling constructed by the corporation or association.

(4) "Tenant" includes, but is not limited to, a resident of a mobile home in a mobile home park.

L.1972, c. 186, § 49. Amended by L.1982, c. 231, § 1. eff. Jan. 5, 1983; L.1983, c. 166, § 1 eff. May 3, 1983.

Assembly Transportation and Communications Committee Statement

Assembly, No. 1090—L.1982, c. 231

Currently the Cable Television Act provides specific guidelines regarding the installation of cable television service on rental property. The "owner" of a dwelling may not refuse to permit the installation of such service in his building. Moreover, an owner may not impose rent increases or unreasonable conditions for allowing the installations. This bill defines owner to include but not be limited to a mobile park owner or operator. The purpose of this bill is to insure that residents of mobile homes are not refused or unreasonably inhibited from installing cable television service.

This bill is supported by the cable television industry.

Historical and Statutory Notes

Effective date, see note under § 48:5A-1.

1982 Amendment. Inserted a second paragraph which read:

"For purposes of this act:

"'owner of any dwelling or his agent' shall include but not be limited to a mobile home park owner or operator;

" 'tenant' shall include but not be limited to a resident of a mobile home in a mobile home park."

L.1983, c. 166, § 1 incorporated the changes made by the 1982 amendment.

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property or his agent constitutionally authorizes private property to be taken for public purpose with just compensation being made. *NYT Cable TV v. Homestead At Mansfield, Inc.*, 214 N.J.Super. 148, 518 A.2d 748 (A.D.1986) affirmed 111 N.J. 21, 543 A.2d 10.

½. In general

Fact that satellite master antenna television systems have been declared by the federal communications commission to be free from state and local regulation of operations did not render ineffective this section prohibiting landowners from preventing tenants from receiving franchised cable television service and prohibiting landowners from exacting payments for permission to install such service. *Princeton Cablevision, Inc. v. Union Valley Corp.*, 195 N.J.Super. 257, 478 A.2d 1234 (Ch.1983).

To meet constitutional requirement, this section prohibiting landowners from preventing tenants from receiving cable television service and prohibiting landowners from demanding or accepting payment for permitting installation of cable service would be read to include an obligation to pay landowners compensation for the taking of property that occurs through physical occupation of property by cable television facilities, with the task of fixing just compensation to rest in the hands of the board of public utility commissioners. *Princeton Cablevision, Inc. v. Union Valley Corp.*, 195 N.J.Super. 257, 478 A.2d 1234 (Ch.1983).

1. Tenant

"Tenant," within meaning of this section prohibiting owner from preventing tenant from re-

½. Validity

Even if New Jersey statute guaranteeing cable television companies access to multi-unit dwellings and condominium developments in order to solicit customers for their services discriminates against unfranchised cable operators, it does so without regard to content of speech conveyed by such companies and does not change fact that mandatory access pursuant to statute would cause no reduction in a homeowner's ability to regulate entry of speech into his or her home; thus, statute did not violate any First Amendment rights of condominium developers, homeowners' associations, or satellite master antenna television company that had been chosen by developers to provide cable television services to condominium associations to exclude undesired state-sponsored "speakers" from private developments. *Direct Satellite Communications, Inc. v. Board of Public Utilities*, D.C.N.J.1985, 615 F.Supp. 1558.

This section which provides that tenant cannot be denied cable television service by owner of

Last additions in text indicated by underline; deletions by strikeouts

receiving cable television service or from demanding payment from tenant as condition of permitting installation of such service, includes a condominium unit owner and a housing cooperative shareholder. *Princeton Cablevision, Inc. v. Union Valley Corp.*, 195 N.J.Super. 257, 478 A.2d 1234 (Ch.1983).

2. Purpose

Purpose of this section regulating conduct of landowners with respect to cable television service offered to tenants is to prevent landowners from exacting an excessive price from tenants who want to receive, or from cable companies who want to provide, cable services; purpose is to bar the entity controlling access from improperly exacting tribute. *Princeton Cablevision, Inc. v. Union Valley Corp.*, 195 N.J.Super. 257, 478 A.2d 1234 (Ch.1983).

3. Access

This section which provides that tenant cannot be denied cable television service by owner of property or his agent does not limit basic right of potential subscriber to receive service, and does not require that potential subscriber's right to receive service be balanced against convenience, safety, and well-being of other tenants. *NYT Cable TV v. Homestead At Mansfield, Inc.*, 214 N.J.Super. 48, 518 A.2d 748 (A.D.1986) affirmed 111 N.J. 21, 543 A.2d 10.

Condominium owner's motion to enjoin cable television company from pursuing petition for access to condominium project before Board of Public Utilities and counterclaim to compel cable television company to institute proceedings for inverse condemnation in order to gain access to condominium project was challenge to validity of Board's regulation fixing just compensation for cable television company's right of access to building, was outside jurisdiction of Superior Court, Law Division, required condominium owner first to exhaust challenges before Board of Public Utilities and then to seek review before Superior Court, Appellate Division, which had exclusive jurisdiction to review Board's decision. *Ocean Cablevision Associates v. Hovbilt, Inc.*, 210 N.J.Super. 626, 510 A.2d 308 (L.1986).

Under this section, condominium association and housing cooperatives may not effectively decide to bar access by a franchised cable television company to a multiunit dwelling serviced by a satellite master antenna television system, notwithstanding federal preemption of state and local regulation of satellite master antenna television systems. *Princeton Cablevision, Inc. v. Union Valley Corp.*, 195 N.J.Super. 257, 478 A.2d 1234 (Ch.1983).

With regard to competition between unregulated satellite master antenna television service and franchised cable television service over access to multiunit dwellings, the question of whether, when, how and in what circumstances the franchised cable company is entitled to access in an individual case is a matter that engages the special competence of the board of public utility commissioners and is not for determination by a court. *Princeton Cablevision, Inc. v. Union Val-*

ley Corp., 195 N.J.Super. 257, 478 A.2d 1234 (Ch.1983).

Petitioner was entitled to access to respondents' residential development in order to install cable television facilities and equipment, since petitioner's proposed plan for installation was reasonable and adequate, and respondents' property would, in fact, be more valuable as a result of the installation of cable television lines. *NYT Cable TV v. Homestead at Mansfield*, 11 N.J.A.R. 486 (1985) affirmed 518 A.2d 748, 214 N.J.Super. 148 (App.Div.1986) affirmed 543 A.2d 10, 111 N.J. 21.

4. Declaratory judgment

Cable television system had standing to seek declaration as to validity of "exclusive service contract" between homeowners' association and satellite master antenna television corporation, where cable system could not compete with the satellite system unless the contract was declared invalid, where the homeowners' association that signed the contract was controlled by the owners of the satellite corporation, and where prompt challenge was necessary. *Princeton Cablevision, Inc. v. Union Valley Corp.*, 195 N.J.Super. 257, 478 A.2d 1234 (Ch.1983).

5. Estoppel

Satellite master antenna television corporation could not claim "high ground" and successfully argue that fact that rival cable television system waited silently while satellite system was installed in condominium development at substantial cost estopped the cable system from challenging satellite system's exclusive contract with condominium homeowners' association, where the major satellite investment commitment was made without administrative approval contrary to law in effect at that time. *Princeton Cablevision, Inc. v. Union Valley Corp.*, 195 N.J.Super. 257, 478 A.2d 1234 (Ch.1983).

6. Service contracts

"Exclusive service contract" between satellite master antenna television corporation and condominium homeowners' association, under which corporation received access to condominium development for installation of system, corporation agreed to provide connections for each dwelling unit and the association agreed to pay a monthly charge of \$6 a unit, regardless of whether tenants of a unit wished to subscribe, was invalid, since the monthly charge levied by the homeowners' association was the functional equivalent of a prohibition of the use of a rival cable television service in violation of state statute. *Princeton Cablevision, Inc. v. Union Valley Corp.*, 195 N.J.Super. 257, 478 A.2d 1234 (Ch.1983).

7. Construction with other law

For purposes of fixing compensation for taking under this section which provides that tenant cannot be denied cable television service by owner of property or his agent, Eminent Domain Act [N.J.S.A. 20:3-1 et seq.] is inapplicable and Board of Public Utilities has jurisdiction to fix compensation, as Cable Television Act contemplates that there will be special procedures to

decide issues relating to access and as Cable Television Act does not specify that taking under Act should be undertaken or compensated in accordance with procedure in Eminent Domain Act. NYT Cable TV v. Homestead At Mansfield, Inc., 214 N.J.Super. 148, 518 A.2d 748 (A.D.1986) affirmed 111 N.J. 21, 543 A.2d 10.

8. Indemnification

This section requiring cable companies to indemnify building owners for any damage caused by installation, operation, or removal of cable television facilities could not be read as actually requiring payment of compensation to owners by cable television companies for rights of access and installation; wording clearly indicated that legislature was referring to actual physical dam-

age caused to property by cable installation and not to compensation for taking of property. NYT Cable TV v. Homestead at Mansfield, Inc., 111 N.J. 21, 543 A.2d 10 (1988).

9. Compensation of owners

This section could reasonably be construed as requiring payment of just compensation to building owners by cable television companies for rights of access and installation, and sufficient indication did not exist that legislature would have preferred demise of the Act rather than its preservation through judicial surgery; therefore, constitutionality of the Act had to be preserved by interpreting the Act as requiring just compensation. NYT Cable TV v. Homestead at Mansfield, Inc., 111 N.J. 21, 543 A.2d 10 (1988).

48:5A-50. Immunity from liability for use of facilities for CATV company

No cable television company shall be liable to prosecution or for damages, directly or indirectly, arising out of any suit for libel, slander, defamation of character, indecency, invasion of privacy or any other cause of action arising from the use of its facilities by any person to whom the use of such facilities is extended by the company in compliance with its obligations under any State or Federal law, regulation or policy requiring that it make such use available to members of the public.

L.1972, c. 186, § 50.

Historical and Statutory Notes

Effective date, see note under § 48:5A-1.

48:5A-51. Violations; penalties; injunctions

a. Any person or any officer or agent thereof who shall knowingly violate any of the provisions of this act or aid or advise in such violation, or who, as principal, manager, director, agent, servant or employee knowingly does any act comprising a part of such violation, is guilty of a misdemeanor.

b. Any person who shall violate any provision of this act or any rule, regulation or order duly promulgated hereunder, shall be liable to a penalty of not more than \$500.00 for a first offense, not less than \$100.00 nor more than \$1,000.00 for a second offense, and not less than \$500.00 nor more than \$1,000.00 for a third and every subsequent offense. The penalties provided in this subsection shall be enforced by summary proceedings instituted by the board in the name of the State in accordance with "the penalty enforcement law" (N.J.S. 2A:58-1 et seq.). The Superior Court, ~~County Court, county district court~~ and the municipal courts shall all have jurisdiction to enforce said "Penalty Enforcement Law" in connection with this act.

c. Whenever it shall appear to the board that any person has violated, intends to violate, or will violate any provisions of this act or any rule, regulation or order duly promulgated hereunder, the board may institute a civil action in the Superior Court for injunctive relief and for such other relief as may be appropriate in the circumstances, and the said court may proceed in any such action in a summary manner.

L.1972, c. 186, § 51. Amended by L.1991 c. 91, § 470, eff. April 9, 1991.

Historical and Statutory Notes

Effective date, see note under § 48:5A-1.

48:5A-52. Repealed by L.1983, c. 15, § 3, eff. Jan. 20, 1983

Last additions in text indicated by underline; deletions by ~~strikeouts~~

§ 5-18A-4. Landlord-tenant relationship.

(a) A landlord may not:

(1) Interfere with the installation, maintenance, operation or removal of cable television facilities upon his property or multiple dwelling premises, except that a landlord may require:

(A) That the installation of cable television facilities conform to such reasonable conditions as are necessary to protect the safety, functioning and appearance of the multiple dwelling premises and the convenience and well-being of other tenants;

(B) That the cable operator or the tenant or a combination thereof bear the entire cost of the installation or removal of such facilities; and

(C) That the cable operator agrees to indemnify the landlord for any damage caused by the installation, operation or removal of such facilities;

(2) Demand or accept any payment from any tenant, in any form, in exchange for permitting cable television service on or within his property or multiple dwelling premises, or from any cable operator in exchange therefor except as may be determined to be just compensation in accordance with this article;

(3) Discriminate in rental charges, or otherwise, between tenants who receive cable television service and those who do not.

(b) Provisions relating to cable television service or satellite master antenna systems contained in rental agreements and leases executed prior to the effective date of this article may be enforced notwithstanding this section.

(c) A cable operator may not enter into any agreement with the owners, lessees or persons controlling or managing the multiple dwelling premises served by a cable television, or do or permit any act, that would have the effect, directly or indirectly, of diminishing or interfering with existing rights of any tenant or other occupant of such building to use or avail himself of master or individual antenna equipment.

(d) The cable operator shall retain ownership of all wiring and equipment used in any installation or upgrade of a cable system within any multiple dwelling premises. (1993, c. 15.)

Editor's notes. — Concerning the language added by c. 15, Acts 1993, c. 15 became effective "the effective date of this article," which was ninety days from an April 10, 1993 passage.

§ 5-18A-5. Prohibition.

Except as provided in this article, no landlord may demand or accept any payment from any cable operator in exchange for permitting cable television service or facilities on or within the landlord's property or multiple dwelling premises. (1993, c. 15.)

§ 5-18A-6. Just compensation.

Every landlord is entitled to a single payment of just compensation for property taken by a cable operator for the installation of cable television service or facilities. The amount of just compensation, if not agreed between

the landlord and cable operator, shall be determined by the board in accordance with this article upon application by the landlord pursuant to section nine [§ 5-18A-9] of this article. A landlord is not entitled to just compensation in the event of a rebuild, upgrade or rewiring of cable television service or facilities by a cable operator. (1993, c. 15.)

§ 5-18A-7. Right of entry.

A cable operator, upon receiving a request for service by a tenant or landlord, has the right to enter property of the landlord for the purpose of making surveys or other investigations preparatory to the installation. Before such entry, the cable operator shall serve notice upon the landlord and tenant, which notice shall contain the date of the entry and all other information described in subsection (b), section eight [§ 5-18A-8(b)] of this article. The cable operator is liable to the landlord for any damages caused by such entry but such damages shall not duplicate damages paid by the cable operator pursuant to section nine [§ 5-18A-9] of this article. (1993, c. 15.)

§ 5-18A-8. Notice of installation.

(a) Every cable operator proposing to install cable television service or facilities upon the property of a landlord shall serve upon said landlord and tenant, or an authorized agent, written notice of intent thereof at least fifteen days prior to the commencement of such installation. Verbal notice to the tenant shall be legally sufficient if the date and time of entry is communicated to the tenant by either the landlord or cable operator at least twenty-four hours prior to entry.

(b) The board shall prescribe the procedure for service of such notice, and the form and content of such notice, which shall include, but need not be limited to:

- (1) The name and address of the cable operator;
- (2) The name and address of the landlord;
- (3) The approximate date of the installation; and
- (4) A citation to this act.

(c) Where the installation of cable television service or facilities is not effected pursuant to a notice served in accordance with this section, for whatever reason including denial of entry by the landlord, the cable operator may file with the board a petition, verified by an authorized person from the cable operator, setting forth

- (1) Proof of service of a notice of intent to install cable television service upon the landlord;
- (2) The specific location of the real property;
- (3) The resident address of the landlord, if known;
- (4) A description of the facilities and equipment to be installed upon the property, including the type and method of installation and the anticipated costs thereof;
- (5) The name of the individual or officer responsible for the actual installation;

§ 5-810. Continuity of service mandatory.

(a) It is the right of each subscriber to continue receiving service insofar as the subscriber's financial and other obligations to the franchisee are honored. If the franchisee elects to overbuild, rebuild, modify, or sell the system, or the County gives notice of intent to revoke or fails to renew the franchise, the franchisee shall act so as to ensure that all subscribers receive continuous, uninterrupted service. If there is a change of franchisee, or if a new operator acquires the system, the original franchisee shall cooperate with the County, new franchisee, or operator in maintaining continuity of service to all subscribers. During any transition period the franchisee is entitled to the revenues for any period during which it operates the system and is entitled to reasonable costs for its services when it no longer operates the system.

(b) If the franchisee fails to operate the system for seven consecutive days without prior approval of the Director or without just cause, the Director may operate the system or designate an operator until the franchisee restores service under conditions acceptable to the Director or a permanent operator is selected. If the County is required to fulfill this obligation for the franchisee, then during the time that the County fulfills this obligation, the County is entitled to collect all revenues from the system; and the franchisee shall reimburse the County for all reasonable costs or damages in excess of the revenues collected by the County that are the result of the franchisee's failure to perform.

(Bill No. 35-89, § 1)

§ 5-811. Identification of employees.

Every employee of the franchisee or its contractors or subcontractors shall be clearly identifiable on sight through identification badges or other indicia as a representative of the franchisee. Every vehicle of the franchisee or its contractors or subcontractors shall be similarly identified. The franchisee's telephone number shall also be clearly marked on all such vehicles.

(Bill No. 35-89, § 1)

SUBTITLE 9. LANDLORD AND TENANT RIGHTS**§ 5-901. Definitions.**

In this subtitle the following words have the meanings indicated:

(a) "Landlord" means any person who owns, leases, controls, or manages a multiple-dwelling unit.

(b) "Multiple-dwelling unit" means a dwelling containing more than two dwelling units or a non-owner-occupied dwelling containing two units, but does not include a structure or group of structures having living or sleeping accommodations used primarily for transient occupancy.

(Bill No. 35-89, § 1)

§ 5-902. Installation to be permitted.

(a) The County Council finds that access to public, educational, and government programming and other cable communications system services is an important benefit for all residents of the County, and that arbitrary denial of this access to tenants by a landlord is contrary to the public interest.

(b) A landlord may not prohibit or otherwise prevent a franchisee from entering a multiple-dwelling unit for the purpose of constructing, installing, or servicing cable communications system facilities if a tenant or occupant of the unit has requested cable service. A franchisee may not make an installation in an individual dwelling unit unless permission has been given by the tenant occupying the unit.

(c) A landlord may not discriminate in rental or other charges between tenants who subscribe to cable services and those who do not. The owner of the real property may require compensation in exchange for permitting the installation of cable communications system equipment within and on the real property only in accordance with the provisions of § 5-903 of this subtitle.

(d) A landlord may require the franchisee to:

(1) install cable television equipment in the multiple-dwelling unit at no cost to the landlord; and

(2) indemnify the landlord for any damage that results from the installation or removal of cable television equipment.

(e) Violation of this section constitutes grounds for suspension or revocation of an owner's multiple-dwelling operating license issued under Article 22, Title 3 of this Code.

(Bill No. 35-89, § 1)

§ 5-903. Compensation.

(a) If a landlord intends to require the payment of a sum in excess of one dollar per individual dwelling unit to be served in exchange for permitting the installation of cable communications system facilities, the owner shall serve written notice on the franchisee within 20 days of the date the landlord is notified that the franchisee intends to construct or install facilities in the landlord's multiple dwelling. Unless timely notice is given by the landlord to the franchisee, it is conclusively presumed that the landlord does not claim or intend to require the payment of a sum in excess of a one-time payment of one dollar in exchange and as compensation for permitting the installation of cable communications system facilities.

(b) Any landlord who has given timely notice to the franchisee may assert a claim for reasonable compensation in excess of one dollar for permitting the installation of cable communications system facilities. Within 30 days after notice has been given by a landlord of the landlord's intent to demand additional compensation, the landlord shall advise the franchisee in writing of the amount claimed as reasonable compensation.

(c) If within 60 days after the receipt of the landlord's claim, the franchisee has not agreed to pay the amount claimed or some other amount acceptable to the landlord, the landlord may bring an action in a court of competent jurisdiction to enforce the claim for compensation. In any action brought it shall be presumed that reasonable compensation is one dollar, but the presumption may be rebutted and overcome by evidence that:

(1) the landlord has a specific alternative use for the space occupied by the cable communications system facilities or equipment, the loss of which results in a monetary loss to the landlord; or

(2) installation of cable system facilities or equipment in the multiple-dwelling unit will otherwise substantially interfere with the use and occupancy of the unit to an extent that causes a decrease in the resale or rental value of the real property.

(d) In determining the damages when no part of the real property is being taken, consideration is to be given only to an injury that is special and peculiar to the real property and there shall be deducted the amount of any benefit to the real property by reason of the installation of cable communications system facilities.

(e) The landlord is not entitled to compensation based on any claim of lost profits or business opportunity from an existing or proposed satellite, microwave, or master antenna television system servicing the multiple-dwelling unit.

(Bill No. 35-89, § 1)

§ 5-904. Enforcement.

(a) The right of a franchisee to construct, install, or maintain its cable television equipment in a multiple-dwelling unit may not be delayed or impaired by:

- (1) the giving of a notice described in § 5-902 of this subtitle;
- (2) the assertion of a specific claim by a landlord; or
- (3) the initiation by a landlord of legal action to enforce a claim.

(b) If a landlord interferes with the installation of cable television equipment by a franchisee in a manner not authorized by this subtitle, a tenant or occupant or the franchisee may seek a court order to enjoin the landlord from further interference.

(Bill No. 35-89, § 1)

SUBTITLE 10. REPORTS, RECORDS, AND INSPECTIONS

§ 5-1001. Annual reports.

Within 120 days after the close of the franchisee's fiscal year, each franchisee shall submit a written annual report in the format provided by the County including:

(1) a summary of the previous year's activities in development of the cable communications system and including services begun or discontinued during the reporting year and the number of subscribers for each class and service tier;

dance with the Uniform Statewide Building Code on exterior sliding glass doors located in a building at any level or levels designated in the ordinance.

3. Locking devices which meet the requirements of the Uniform Statewide Building Code on all exterior windows.

Any ordinance adopted pursuant to this section shall further provide that any landlord subject to the ordinance shall have a reasonable time as determined by the governing body in which to comply with the requirements of the ordinance. (1977, c. 464; 1988, c. 300)

Law Review. — For survey on property law in Virginia for 1989, see 23 U. Rich. L. Rev. 773 (1989).

Local ordinance preempted by this section. — In a negligence action against a landlord for injuries to a tenant caused by the criminal acts of a third party, the trial court erred in finding that a local dead-bolt ordinance

provided a basis for landlord liability; the dead-lock provisions of the ordinance were preempted by this section, which relieved the landlord of liability because no written request had been made for the installation of a dead lock. *Kingbeil Management Group Co. v. Vito*, 233 Va. 445, 357 S.E.2d 200 (1987).

§ 55-248.13:2. Access of tenant to cable, satellite and other television facilities. — No landlord shall demand or accept payment of any fee, charge or other thing of value from any provider of cable television service, satellite master antenna television service, direct broadcast satellite television service, subscription television service or service of any other television programming system in exchange for giving the tenants of such landlord access to such service; and no landlord shall demand or accept any such payment from any tenants in exchange therefor unless the landlord is itself the provider of the service. Nor shall any landlord discriminate in rental charges between tenants who receive any such service and those who do not. Nothing contained herein shall prohibit a landlord from requiring that the provider of such service and the tenant bear the entire cost of the installation, operation or removal of the facilities incident thereto, or prohibit a landlord from demanding or accepting reasonable indemnity or security for any damages caused by such installation, operation or removal. (1982, c. 323.)

§ 55-248.14. Limitation of liability. — Unless otherwise agreed, a landlord who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and this chapter as to events occurring subsequent to notice to the tenant of the conveyance. Unless otherwise agreed, a manager of premises that include a dwelling unit is relieved of liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the termination of his management. (1974, c. 680; 1987, c. 313.)

Law Review. — For survey on property law in Virginia for 1989, see 23 U. Rich. L. Rev. 773 (1989).

§ 55-248.15. Effect of notice of change of terms or provisions of tenancy. — A notice of any change by a landlord in any terms or provisions of a tenancy shall constitute a notice to vacate the premises, and such notice of change shall be given in accordance with the terms of the rental agreement or as otherwise required by law. (1974, c. 680.)

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

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AT RICHMOND, OCTOBER 7, 1986

COMMONWEALTH OF VIRGINIA

At the relation of the

STATE CORPORATION COMMISSION

Ex Parte: Investigation of
private resale or shared use
of local exchange services

CASE NO. PUC850036

FINAL ORDER

On September 15, 1986, the Commission entered an order in this docket that cancelled the oral argument that had been scheduled for September 16. The order provided that any party desiring oral argument must file a request that it be rescheduled on or before September 30, 1986. Because no request has been filed, the Commission concludes that oral argument is neither desired nor necessary.

The hearing scheduled September 16, 1986 at 10:30 a.m. was convened by a Commission Hearing Examiner solely for the purpose of receiving comments from any public witness desiring to address the rules. No public witnesses appeared.

Since no public witnesses appeared to speak against the proposed rules for shared tenant service, the comments filed by the parties were generally supportive of the rules, and no party sought oral argument in opposition to the proposed rules, the Commission has concluded that the rules proposed in our order of

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VICE PRESIDENT

July 11, 1986 should be adopted to become effective as of the date of this order. Accordingly,

IT IS THEREFORE ORDERED that the Rules Governing Sharing or Resale of Local Exchange Service (Shared Tenant Services) set forth in Attachment A hereto are adopted effective as of the date of this order.

ATTESTED COPIES hereof shall be sent by the Clerk of the Commission to the parties shown on the service list attached hereto as Attachment B; to the local exchange telephone companies of the State of Virginia as shown on the service list attached hereto as Attachment C; to the Division of Consumer Counsel, Office of the Attorney General, 101 North 8th Street, 6th Floor, Richmond, Virginia 23219; and to the Commission's Divisions of Communications, Accounting and Finance and Economic Research and Development.

A True Copy
— Teste:

George H. Bryant, Jr.

Clerk of the
State Corporation Commission

STATE CORPORATION COMMISSION

ATTACHMENT A

RULES GOVERNING SHARING OR

RESALE OF LOCAL EXCHANGE SERVICE

(SHARED TENANT SERVICE)

- §1 The tariffs of Virginia local exchange companies shall not prohibit any persons from subscribing to local exchange business telecommunications service and facilities and privately reoffering those communication services and facilities to persons or entities occupying buildings or facilities that are within specifically identified contiguous property areas (even if the contiguous area is intersected by public thoroughfares or rights-of-way) and are either (a) under common ownership, which is either the same owners, common general partners, or common principal equity investors or (b) within a common development which is either an office or commercial complex, a shopping center, an apartment or condominium or cooperative complex, an airport, a hotel or motel, a college or university, or a complex consisting of mixed uses of the types heretofore described, but not to include residential subdivisions consisting of single-family detached dwellings. Such private reoffering shall hereinafter be referred to as "shared tenant service."
- §2 To the extent that a shared tenant service system would not meet the requirements of Rule 1 of these Rules, the person

or persons desiring to provide the shared tenant service system shall have the right to petition the Commission to obtain a waiver of that Rule. Notice of this petition shall be given to the local exchange telephone company serving the area proposed to be affected by the proposal and to any other persons designated by the Commission. The Commission may grant any such petition upon finding that the public interest is thereby served.

§3 These shared tenant service Rules shall apply only to those shared tenant service systems sharing more than 16 access lines or more than 32 stations. Sharing of smaller systems shall not be prohibited by local exchange companies, and shall be governed by Joint User Tariffs where in effect.

§4 Local exchange companies providing service to shared tenant service providers may charge for the resale of local business service based upon the number of calls to the extent permitted by the terms of Virginia Code §56-241.2 (1986). Nothing in these shared tenant service rules shall be construed to authorize or to preclude treatment by local exchange companies of shared tenant service providers as a separate class of customers for the purpose of establishing rates and regulations of service. Where tariffs providing for such charges based on the number of calls are not in effect at the time service is applied for, local exchange

companies shall provide service to shared tenant service providers for the resale of local business service at the flat rates that apply to other business P8X customers.

- §5 Shared tenant service shall not be offered to the general public other than the offering of properly tariffed coin service.
- §6 Providers of shared tenant service are business customers. On behalf of their residential and business end users, such providers may subscribe to residential and business directory listings, respectively, at the rates established for such additional listings by the local exchange company.
- §7 Local exchange companies shall have both the right and the obligation to serve any requesting subscriber located within their certificated service territory.
- §8 Any end user within a shared tenant service building or facility has the right to subscribe to service directly from the certificated local exchange company.
- §9 Providers of shared tenant service need not partition switches to allocate trunks among tenants or subscribers.
- §10 Shared tenant service providers receiving service under joint user tariffs of local exchange companies as of the effective date of these rules may continue to receive such joint user service at those existing locations as long as each such location remains with that same provider.

§11 All rates and charges in connection with shared tenant service and all repairs and rearrangments behind the minimum point of penetration of the local exchange company's facilities or behind the interface between company owned and customer owned equipment and including the shared tenant service provider's switch will be the responsibility of the person owning or controlling the facilities behind such minimum point of penetration or interface and are not regulated by the Virginia State Corporation Commission.